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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,624	02/20/2004	Ricardo E. Paxson	MWS-110RCE2	7212
74321 7590 11/02/2009 LAHIVE & COCKFIELD, LLP/THE MATHWORKS FLOOR 30, SUITE 3000 One Post Office Square Boston, MA 02109-2127				
EXAMINER				
SIMS, JASON M				
ART UNIT		PAPER NUMBER		
1631				
MAIL DATE		DELIVERY MODE		
11/02/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/783,624

Applicant(s)

PAXSON ET AL.

Examiner

JASON M. SIMS

Art Unit

1631

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 19 October 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-22 and 45-48.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Marjorie Moran/
Supervisory Patent Examiner, Art Unit 1631

/Jason Sims/

Continuation of 11, does NOT place the application in condition for allowance because: Applicant appears to be arguing throughout their response that the amendment to the claims that recites the composite graphical model having components described by at least two different types of mathematical models distinguishes the claimed invention over the prior art. Applicant further argues that the Sauro reference explicitly states that the described software is capable of simulating a model including only a singly type of mathematical model.

Applicant's arguments are not found persuasive as the cited passage by applicant states that "msim supports multiple simulation instances; that is more than one simulation can be active at any one time. All methods in msim require a model handle to indicate the current model instance. Model instances can be created and destroyed through the modelServices service. msim provides a range of methods to control, interrogate, and simulate either continuous (ordinary differential equation based), or probabilistic (based on the Gillespie method) models." Sauro et al. do not state that the use of more than mathematical model is exclusionary in a simulation as stated by applicant, but that multiple simulation instances can be active at the same time whereas a "range of methods" are provided to simulate the model, which range from ODEs to probabilistic methods (see page 364, third paragraph). Furthermore, as stated in applicant's claims each of the models can comprise solely ODEs as evidenced by claims 5-6.

Applicant further argues this point throughout their response where the claims recite a feature of a composite graphical model having components described by at least two different types of mathematical models.

As stated throughout the office actions that Sauro et al. teach a software and simulation environment capable of running a model described by at least two different types of mathematical models as discussed above in the instant advisory action. Furthermore, applicant's claims recite that each of the models may comprise ordinary differential equations, whereas Sauro et al. teach a simulation system comprising different ODEs being run during a simulation, i.e. multiple instances may be run at the same time.

Applicant states similar reasoning for overcoming the rejection of claims as being anticipated by Hucka.

Applicant's arguments are not found persuasive as Hucka teach using the same software environment as that used in the Sauro et al. reference as discussed in the Final Office action mailed out 8/18/2009. Thus the same reasoning applies as to why Hucka is not overcome based on applicant's arguments.